



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

ELECTRONIC EMAIL
CONFIRMATION OF EMAIL RECEIPT REQUESTED

Ms. Mary Shahid
Nexsen Pruet, LLC
205 King Street, Suite 400
Charleston, South Carolina 29401
MShahid@nexsenpruet.com

Re: Pine Hope Plantation, Berkeley County, South Carolina

Dear Ms. Shahid:

This letter is in response to your correspondence dated April 16, 2021, regarding the above referenced property owned by your client, Mr. Henry Brown. Thank you for your attention to this matter.

The EPA reviewed your responses to the potential resolutions outlined in our March 2, 2021, correspondence and they generally address several of the EPA suggested components for potential resolution as outlined below.

1. *Construct cross-drainage in common fire-line road at South Carolina Forestry Commission recommended spacing for wetland roads (Exhibit A).* Based on your response, Mr. Brown will install one low-water crossing and/or cross-drain as indicated on Exhibit A in accordance with the South Carolina Forestry BMP Manual and EPA agrees that this will help to accomplish the goal of maintaining hydrology in the wetland system.
2. *Place a ditch plug at location previously proposed (Exhibit A).* Mr. Brown will install the ditch plug at the location proposed and approximately located in Exhibit A. Mr. Brown indicated that he did not think this necessary based on condition #5 below, but this is downgradient from the ditch plug location and therefore would be lower in elevation. Regardless, EPA agrees that this will help to accomplish the goal of maintaining hydrology in the wetland system.
3. *Remove culverts and construct low-water crossings in ditch crossing along the common fire-line road (Exhibit B).* EPA agrees this action is not necessary if items 1, 2, and 5 are completed.
4. *Backfill and stabilize the two lateral ditches (Exhibit B).* Mr. Brown has responded that he is not amenable to any suggestion that these ditches need to be filled and/or removed and that the State Forester expressed ecological effect concerns over backfilling. EPA spoke to the SCFC regarding these concerns and they also think that additional fill material would be needed. EPA disagrees with the opinion that additional fill would be required as all the material excavated remains adjacent to the ditches. However, if items 1, 2, and 5 are completed, hydrology within the system will be maintained and therefore EPA agrees to omit this requirement.

5. *Place a permanent outlet control structure at head of Mary Ann Branch (currently there is a dilapidated adjustable water level control structure at this location) with outlet elevation set at full pool elevation (Exhibit C).* Based on your response, Mr. Brown will install a permanent riser board to maintain water levels at the high-water mark in the impoundment and EPA agrees that this will help to accomplish the goal of maintaining hydrology in the wetland system.
6. *Remove crossings and culverts at crossings 1 and 2 (Exhibit D) or place culverts at stream grade at these locations.* Mr. Brown has responded that he is not willing to undertake these remedial actions and is claiming that these ponds are needed for fire protection. Ponds for silviculture are not considered an exempt activity and there are other significant sources of water on the property for fire protection. These ponds were constructed by excavating Mary Ann Branch and installing culverts at elevations above grade and are acting to impound water above natural stream grade elevations. However, after further consideration of the facts, disturbance of a stable system may lead to degradation and therefore EPA agrees to omit this requirement.
7. *Provide location, acreage, and protection instrument proposal for buffer and preservation areas proposed and/or contemplated in the May 21, 2018, letter from Ms. Shahid.* In your response, you indicated that Mr. Brown had voluntarily preserved approximately 30 acres of property to serve as a buffer between Pine Hope Plantation and the National Forest. Can you provide a copy of this agreement and/or explain what is required to be preserved and how? EPA disagrees with characterizing this as a mitigation requirement and rather, is seeking to protect and preserve the proposed resolution activities outlined above, thereby ensuring that hydrological regimes are maintained. If you are amenable to language within an Administrative Order on Consent (AOC) that protects and preserves the activities outlined above, EPA is agreeable that no further preservation area(s) are required.

Please respond in writing within 30 days indicating that you agree in principle to the substance of this proposal. Upon receipt of your written response, EPA will begin developing a draft AOC to effectuate the settlement in principle. Should you have any questions, please contact Mr. Christopher Parker at (404) 562-9838 or parker.christopher@epa.gov. For legal questions, please have your attorney contact Ms. Michele Wetherington, EPA Associate Regional Counsel, at (404) 562-9613 or wetherington.michele@epa.gov.

Sincerely,

Daniel J. O'Lone, Chief
Waterways and Wetlands Enforcement Section
Water Enforcement Branch